

DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MEDICAL DEPARTMENT ACTIVITY  
Fort Sill, Oklahoma 73503-6300

MEDDAC Memorandum  
No. 40-3-1

5 September 2003

Medical Services  
TREATMENT OF A MINOR (UNDER AGE 18)

1. HISTORY. This issue publishes a revision to an existing publication.
2. PURPOSE. To provide guidance for healthcare providers who may administer care to patients under the age of 18.
3. REFERENCES.
  - a. AR 40-66, Medical Record Administration and Health Care Documentation
  - b. AR 40-400, Patient Administration
  - c. Oklahoma Law (Title 63, Oklahoma Statutes, Section 2602)
  - d. Fort Sill Staff Judge Advocate opinion dated 14 September 1998
4. POLICY. It is the Department of the Army's policy to follow the laws of the state in which medical care is rendered unless federal law preempts the state statutes. Federal law will prevail in the case of soldiers under the age of 18 and they will be considered emancipated. Generally, under Oklahoma law, a health care provider must obtain the consent of the parent or guardian of a non-military minor child (under the age of 18) before rendering routine medical care. There are exceptions to this general guidance in subparagraph 4.b.
5. PROCEDURES.
  - a. Providers must obtain either written or verbal consent from the parent or guardian of a minor patient before rendering routine care. There is no requirement for the parent or guardian to be physically present when giving consent. Wholly informed consent is the standard, and therefore providers should be mindful that accepting a written note or telephonic consent might place the hospital at risk of liability if the question of sufficiency is raised. Related administrative actions such as picking up medications or medical records are not considered medical care and therefore do not require consent. Medical care requiring written consent includes, but is not limited, to the following definitions:
    - (1) All surgery involving entry into the body by an incision or through one of the natural body openings.
    - (2) Any procedure or course of treatment in which anesthesia is used, whether or not entry into the body is involved. This includes dental procedures.
    - (3) All nonoperative procedures that involve more than a slight risk of harm or change in body structure. This includes immunizations.

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\*This memorandum supersedes MEDDAC Memorandum 40-3-1 dated 17 May 2000

(4) All procedures in which x-ray, radium or other radioactive substance is used.

(5) All procedures involving electroshock therapy.

(6) All other procedures that in the opinion of the attending physician, dentist, chief of service, clinic chief or commander require a written consent. If there is any question about the necessity of a written consent, then it should be resolved in favor of obtaining such consent.

b. Oklahoma law does provide for some exceptions in relation to securing the minor's parental or legal guardian's consent. Written or verbal consent from the parent or guardian is not required if:

(1) The minor is married, has a dependent child or is emancipated. This includes members of the armed forces who are under the age of 18, but by virtue of their status are considered emancipated. A spouse of a minor may give consent when the minor is incapable of rendering consent by reason of physical or mental incapacity.

(2) The minor is separated from his parents or legal guardian for whatever reason and is not supported by his parents or guardian.

(3) The minor suspects pregnancy (needs a pregnancy test) or suspects STD (to include HIV) or wants assistance with questions regarding drug, alcohol or substance abuse. In this instance, self-consent applies only to the prevention, diagnoses and treatment of these conditions and the physician assumes responsibility for providing counseling about the condition(s). The provider will not reveal any information whatsoever about the condition(s) to the spouse, parent or legal guardian, without the consent of the minor. When a minor is found not to be pregnant or suffering from a communicable disease or drug, alcohol or substance abuse, the healthcare provider will not reveal any information to the spouse, parent or legal guardian. Prescribing contraceptives or contraceptive devices to minors does not qualify as an exception. The provider must obtain consent from the parent or guardian before prescribing a contraceptive medicine or device, unless the minor meets one of the other exceptions.

(4) Any minor who is unable to give consent by reason of physical or mental incapacity and has no known relatives or legal guardian may be rendered care if two physicians agree on the health service to be provided.

(5) Any minor in need of emergency services for a condition that will endanger his/her health or life if delay would result by obtaining consent from the spouse, parent or legal guardian. Prescribing any medicine or device for the prevention of pregnancy is not considered such an emergency.

c. When a minor's consent alone is legally sufficient, that person's decision to authorize or reject care is binding. The parent's consent will be required only when it is determined that the minor's consent alone is not legally sufficient. Even in cases where the minor's consent alone is not legally sufficient, his or her consent will be obtained along with the parent's consent when the minor is able to understand the significance of the proposed procedure.

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MCAU-PAD

The proponent for this memorandum is the Patient Administration Division. Send all suggestions and/or comments to Reynolds Army Community Hospital, CDR USAMEDDAC, 4301 Mow-Way Road, ATTN: MCAU-PAD, Fort Sill, OK 73503-6300.

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